IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 12TH JANUARY 2007 / 22ND PAUSHA 1928

Crl.MC.No. 93 of 2007()

ST.1985/2006 of JUDL.MAGISTRATE OF FIRST CLASS COURT, OTTAPPALAM

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PETITIONER/ACCUSED:

P.K. SASIKUMAR, AGED 43, S/O. BHASKARAN NAIR
KARTHIKA, THRIKKANGODE, MANNISSERI
OTTAPALAM.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENT/STATE:

STATE OF KERALA, REP. BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.A. AKBAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/01/2007, A/W. CRMC 95/07 & CONNECTED CASES, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.Nos. 93, 95, 96, 97, 99
100 & 103 of 2007

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Dated this the 12th day of January, 2007

O R D E R

The petitioners are accused in various prosecutions, all under Section 138 of the N.I. Act, pending before the J.F.C.M. Court, Ottapalam. They are co-accused together in some cases. In the others they face prosecutions separately. The petitioners had appeared before the learned Magistrate in one case initially. They were enlarged on bail. But subsequently there has been no appearance. In some other cases they had not entered appearance at all. Warrants to procure their presence is pending in all these cases against them.

2. The petitioners now want to appear before the learned Magistrate. They apprehend that when they appear before the learned Magistrate the learned Magistrate may not consider their applications for bail on merits, in accordance with law and expeditiously. They have hence come to this court with a request that directions under Section 482 Cr.P.C. may be issued in their favour directing the learned Magistrate to release them on bail.

3. I find no merit in the prayer. It is certainly for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned Magistrate. I have no reason to assume that in these prosecutions under Section 138 of the N.I. Act the learned Magistrate would remand them to custody without considering their applications for bail on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

3. This Crl.M.C. is accordingly dismissed, but subject to the above observations/directions. I may hasten to observe that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

HO **(R. BASANT)**
tm Judge